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O.S.A (CAD) No.49 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: **06.06.2024**

CORAM

THE HONOURABLE MR.JUSTICE **M.SUNDAR**

and

THE HONOURABLE MRS.JUSTICE **K.GOVINDARAJAN THILAKAVADI**

O.S.A (CAD) No.49 of 2024

&

C.M.P.Nos.11356 and 11358 of 2024 in O.S.A (CAD) No.49 of 2024

1. Pureca Laboratories Private Limited
D-232, Sector-2, DSIIDC
Bawana, Delhi – 110 039
Rep. By its Director
Vaibhav Vohra, S/o.Subhash Chandra Vohra
2. Pureca Laboratories Private Limited
Plot No.93, Block-C, Sector-2, DSIIDC
Bawana, Delhi – 110 039
Rep. By its Director
Vaibhav Vohra, S/o.Subhash Chandra Vohra
3. Pureca Laboratories Private Limited
L/G, 11 & 12, Ashoka Mall
Pune – 411 011, Rep. By its Director
Vaibhav Vohra, S/o.Subhash Chandra Vohra ... Appellants

Vs.

M/s.Apex Laboratories Ltd.,
29, III Floor, SIDCO Garment Complex
Guindy, Chennai – 600 032
Rep. By its Authorised Signatory
D.Jude F.L.S.Durai Pandian

.. Respondent



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Original Side Appeals filed under Section 13 (1) of Commercial Courts Act, 2015 read with Order XXXVI Rule 9 of Original Side Rules read with Clause 15 of the Letters Patent to set aside the order dated 30.04.2024 made in A.No.7851 of 2018 in C.S.No.277 of 2018.

For Appellants : Mr.Vikram Kumar Parsmal

For Respondent : Mr.R.Sathish Kumar

JUDGMENT

(Judgment of the Court was delivered by **M.Sundar, J.**)

This common judgment will now dispose of the captioned 'Original Side Appeal' ['OSA' for the sake of brevity] and captioned 'Civil Miscellaneous Petitions' ['CMPs' for the sake of brevity] thereat.

2. When the captioned OSA and CMPs thereat was listed in the Admission Board day-before-yesterday (04.06.2024), the following order/proceedings was made:

'A suit with prayers for injunction qua infringement of trademark, copyright in labels / artistic works and passing off progressed in Hon'ble Commercial Division and in this suit Commercial Division passed an 'order dated 30.04.2024 in C.S.No.277 of 2018 and A.Nos.7851, 7852 of 2018, 3025 and 3026 of 2020 and O.A.Nos.418 to 420 of 2018' [hereinafter 'impugned order' for the sake of brevity and convenience] which



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reads as follows:

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'C.S.No.277 of 2018

and

A.Nos.7851 & 7852 of 2018 & 3025 & 3026 of 2020

and

O.A.Nos.418 to 420 of 2018

P.VELMURUGAN, J.,

This Court, vide order dated 24.04.2024, directed the Tamil Nadu Police officials to intimate the whereabouts of the contemnor to the Delhi Police if they found the contemnor in the jurisdiction of Tamil Nadu.

2. Today, when the matter is taken up for hearing, it is submitted by Mr.Sugendiran, learned Additional Public Prosecutor that the contemnor is neither in Delhi nor in the jurisdiction of Tamil Nadu. Hence, either the Tamil Nadu Police or the Delhi Police are unable to secure the contemnor. He has also filed the status report with regard to the same and the same is recorded.

3. The petitioner is at liberty to take steps to arrest the contemnor.

4. Since the pleadings are completed, both the parties are directed to file their affidavit of admission and denial on or before 06.06.2024.

5. The defendant / the Director of Pureca Laboratories Private Limited is directed to appear before this Court along with affidavit of admission and denial on 07.06.2024.

6. List the matter on 07.06.2024.'

2. Mr.Dinesh, learned counsel on record for appellants, who is before us draws our attention to the written statement (October of 2018) before Commercial Division and submits that Mr.Vaibhav Vohra, Director and Authorized Signatory of 'Pureca Laboratories Private Limited' [hereinafter 'said company' for the sake of convenience and clarity] was in difficulty owing to some communication lapse with the earlier counsel and that has led to impugned order



which in turn has put Mr.Vaibhav Vohra, Director and Authorized Signatory of said company in a predicament of sorts.

3. Learned counsel submits, on instructions that Mr.Vaibhav Vohra, Director and Authorized Signatory of said company would comply with paragraph No.5 of the impugned order and requests for suspension of paragraph No.3 and suspension of Non-Bailable Warrant which is said to have been issued.

4. Learned counsel further submits, on instructions, that Mr.Vaibhav Vohra, Director and Authorized Signatory of said company who is backed by a Board Resolution would appear before this Court (this Division Bench) on 06.06.2024 Thursday and based on this undertaking, requests for suspension of paragraph No.3 of the impugned order.

5. This Court having perused the trajectory the matter has taken and nature of submissions that have been made before us deems it appropriate to issue notice regarding admission in the captioned appeal returnable by 06.06.2024 (appellant is permitted to serve on the counsel for plaintiff in the Commercial Division) and the following order is made:

(i) Mr.Vaibhav Vohra, Director and Authorised Signatory, backed by a Board Resolution of said company would appear before this Division Bench on 06.06.2024;



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(ii) *Paragraph No.3 of the impugned order is suspended till next listing i.e., 06.06.2024;*

(iii) *Non-Bailable Warrant which is said to have issued and or any other proceedings for arrest are kept in abeyance / suspended till next listing i.e., 06.06.2024;*

(iv) *Learned counsel submitted that if Mr.Vaibhav Vohra, Director and Authorized Signatory of said company does not appear before this Division Bench on 06.06.2024, the captioned appeal can be dismissed without further hearing.*

6. On appearance as above, further orders will be made.

7. List the captioned matter under the cause list caption 'NOTICE REGARDING ADMISSION' on 06.06.2024.'

3. The aforementioned 04.06.2024 order/proceedings captures the crux and gravamen of the issue at hand and it is also telltale the trajectory the matter has taken thus far.

4. Today, Mr.Vaibhav Vohra, son of Subhash Chandra Vohra, aged 38 years (DOB: 24.09.1986), is present before us.

5. Mr.Vikram Kumar Parsmal and Mr.M.Dinesh, learned counsel for appellant/petitioner representing Mr.Vaibhav Vohra, are before us.

6. An affidavit dated 06.06.2024 has been filed and it will



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suffice to extract and reproduce Paragraph 6 of the affidavit, which reads as follows:

'6. I respectfully submit that on behalf of the Appellants with the folded hands seeks unconditional apology for unwillingly violating the Orders of this Hon'ble Court and undertakes that in future also that no such violation would take place.'

7. To be noted, Paragraphs 3 to 5 of the affidavit have been given up. All the rights and contentions of the appellants as well as their adversary, the respondent, represented by Mr.R.Sathish Kumar, learned counsel, who is today before us, are preserved.

8. To be noted, pursuant to 04.06.2023 proceedings, respondent has been duly served and Mr.R.Sathish Kumar, learned counsel is before us on behalf of the lone respondent and learned counsel submits that he has filed vakalat today.

9. Mr.Vaibhav Vohra has produced his Voter ID and scanned reproduction of the same is as follows:



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10. It is also submitted that his permanent address is No.C-203,

Shiv Vihar, Paschim Vihar, Delhi- 110 087 and he is temporarily residing in Agra, State of Uttar Pradesh and his address there is as follows:

'B-43, Alok Nagar, Agra- 282 010,'

11. In the light of paragraph 6 of the aforementioned affidavit dated 06.06.2024, Mr.Vaibhav Vohra, Director of the Company, who has verified the written statement, being present before us, we allow the captioned OSA and set aside the order dated 30.04.2024 made in A.No.7851 of 2018 in C.S.No.277 of 2018 but we make it clear that paragraph 6 of 06.06.2024 affidavit (extracted and reproduced supra) is recorded. We also make it clear that the suit and applications thereat shall be listed before Hon'ble Commercial Division as already directed by Hon'ble single Judge tomorrow (07.06.2024). However, as the matter is at the stage of affidavit of admission and denial, we make it clear that presence of parties and more particularly, Mr.Vaibhav Vohra before Hon'ble Commercial Division is not necessary. Suit and applications will proceed on its own merits and in accordance with law.



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12. We are informed that Non-Bailable Warrants (NBWs) were issued earlier and if any NBW/s is/are pending, the same shall stand recalled by this order.

13. Captioned intra-court appeal i.e., O.S.A (CAD) No.49 of 2024 and captioned CMPs thereat are disposed of albeit in the aforesaid manner i.e., OSA is allowed with the aforementioned observations/directions and CMPs are consequently closed. There shall be no order as to costs.

(M.S.J.) (K.G.T.J.)
06.06.2024

Index: Yes/No
Neutral Citation: Yes/No
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P.S. I: Upload forthwith

P.S.II : All concerned including the Registry of Madras High Court to act forthwith on the uploaded soft copy of this proceedings as uploaded in the official website of this Court. To be noted, the soft copies uploaded in the official website of this Court are water marked, besides being QR Coded.



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**M.SUNDAR.J.,
and
K.GOVINDARAJAN THILAKAVADI, J.,
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